



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG -2022-0181

RIN 1625-AA00

Safety Zone; Demolition of Gerald Desmond Bridge; Long Beach, California

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for waters near Gerald Desmond Bridge during demolition. This action is necessary to provide for the safety of life on these navigable waters near Long Beach, CA, during period where the over-the-water portion of the Gerald Desmond Bridge will be subject to demolition from May 7, through May 9, 2022. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port (COTP), Los Angeles – Long Beach, or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG 2022-0181 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LCDR Maria Wiener at Sector Los Angeles – Long

Beach Waterways Management Branch at (310) 521-3860 or email D11-SMB-SectorLALB-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On March 3, 2022, the Port of Long Beach notified the Coast Guard that it will be conducting demolition of the Gerald Desmond Bridge from 12:01 a.m. on May 7, 2022, to 11:59 p.m. on May 9, 2022. The demolition will take place at mile 3.3 over Long Beach Harbor on the section of the bridge that is over the water. Hazards from demolition include falling debris and construction work conducted on a barge that will be moored in such a way that it blocks the entire channel. The Captain of the Port (COTP), Los Angeles – Long Beach has determined that potential hazards associated with the demolition of the replacement and removal of Gerald Desmond Bridge would be a safety concern for anyone within a 100-yard radius of the bridge.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 100-yard radius of the Gerald Desmond Bridge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).]

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 12:01 a.m. on May 7, 2022, to 11:59 p.m. on May 9, 2022, with a contingency date of May 14 through May 16, 2022. The safety zone would cover all navigable within 100-yards of the over-water portion of the Gerald Desmond Bridge, located approximately at mile 3.3 over Long Beach Harbor, CA. The duration of the zone is intended to ensure the safety of vessels and these navigable

waters before, during, and after the scheduled demolition. There will be no maritime access to transit to and from middle harbor Long Beach to inner harbor Long Beach in vicinity of the Gerald Desmond Bridge. A contingency time window for the 48-hour closure would start at 12:01 a.m. on May 14, 2022, and end at 11:59 p.m. on May 16, 2022, in case of an unexpected event forcing a change in schedule. The COTP would announce the dates and times of enforcement via local notice to mariners. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on potential hazards associated with the demolition of the replacement and removal of Gerald Desmond Bridge.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard

certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment see **ADDRESSES** explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order

13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 48 hours that would prohibit entry within 100-yards of the potential hazards associated with the demolition of the replacement and removal of the over-water portion of the Gerald Desmond Bridge. Normally such actions are categorically excluded from further review under paragraph L of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or

information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2022-0181 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we

receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T11-0181 to read as follows:

§ 165.T11-0181 Safety Zone; Demolition of Gerald Desmond Bridge; Long Beach, California.

(a) Location. The safety zone covers all navigable waters within 100-yards of the over-the-water portion of the Gerald Desmond Bridge, located approximately at mile 3.3 over Long Beach, CA.

(b) Effective period. This section is effective from 12:01 a.m. on May 7, 2022 until 11:59 p.m. on May 16, 2022.

(c) Enforcement period. This section will be enforced from 12:01 a.m. on May 7, 2022 through 11:59 p.m. on May 9, 2022. In case of unexpected events, a contingency enforcement time window for the 48-hour closure starts at 12:01 a.m. on May 14, 2022, and ends at 11:59 p.m. on May 16, 2022.

(d) Regulations. (1) In accordance with the general regulations in §165.23, entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Los Angeles Long Beach (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP.

(2) In the event of an emergency, vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at (310) 521-3801 or on VHF-FM channel 16. To coordinate the movement of vessel traffic, vessel operators may contact the Jacobsen Pilot Station at (562) 432-0664 or the Water Traffic Coordinator, Andres Velasco, at (602) 376-5765.

(3) Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) Information broadcasts. The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: April 1, 2022.

R. E. Ore,

Captain, U.S. Coast Guard

Captain of the Port, Los Angeles Long Beach.